IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL.

Writ Petition No. 401 (S/S)2007

Smt. Samiksha W/o Sri Praveen Kumar,
Assistant Teacher, Anandmayee Seva Sadan,
Municipal Mahila Inter College, Haridwar,
Resident of Lalkuan, Kankhal, Haridwar. ---- Petitioner.

Vs.

1. The Committee of Management,
   Anandmayee Seva Sadan,
   Municipal Mahila Inter College, Haridwar,
   Through its Manager (Chairman),
   Municipal Board, Haridwar,
2. District Inspector of Schools, Haridwar. ----Respondents.

Sri P.K. Jain, Adv. and Sri V.B.S. Negi, learned counsel for the petitioner and
Sri Paresh Tripathi, learned Standing Counsel for the State/respondents no. 2.
None for respondent no.1.

Hon'ble M.M. Ghildiyal, J.

Heard Sri P.K. Jain, Adv. & Sri V.B.S. Negi, learned counsel for the petitioner and Sri Paresh Tripathi, learned Standing Counsel for the State/respondent no. 2. None is present for respondent no.1.

By means of the writ petition, the petitioner has prayed for the following reliefs:-

a) Issue a writ, order or direction in the nature of certiorari quashing the order dated 22.01.2007 passed by the respondent no.1 (annexure no.1 to the writ petition),

b) Issue a writ, order or direction in the nature of mandamus directing the respondents to ensure payment of salary to the petitioner,

c) Issue any other suitable writ, order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case,

d) Award the cost of the writ petition to the petitioner.

Vide order dated 22nd January 2007, the Manager, Anandmayee Seva Sadan, Municipal Mahila Inter College, Haridwar, terminated the services of the petitioner on the ground that the petitioner has obtained appointment on the basis of certificated issued by the Institution which is not recognized and further that the case certificate issued in favour of the petitioner was not issued by the competent authority. Stand of the petitioner is that on 17.06.1993, a notice was issued by the Regional Inspector of Girls School, Meerut Division, Meerut to the Committee of Management to submit its report in respect of the caste certificate submitted by the petitioner, which was not issued by the competent authority, further the certificated of Sangeet Prabhakar Diploma obtained by the petitioner from the Institution, which is not recognized. Against the order dated 17.06.1993, the petitioner preferred writ petition no. 24323 of 1993 before the Allahabad High Court and the Allahabad High Court initially granted interim order in favour of the petitioner on 08.06.1992, but after being received by transfer from the Allahabad High Court, this Court on 15.12.2006, dismissed the aforesaid writ petition with the following observations:-

"Heard learned counsel for the parties and perused the affidavit and counter affidavit, filed by the parties.

The petitioner has sought writ in the nature of mandamus directing the respondents restraining them from interfering with the functioning of the petitioner as an Assistant Teacher in the respondent institution. The petitioner is an Assistant teacher in Municipal Mahila Inter College, Haridwar (aided institution of State Government).

By the impugned order (annexure-6), the petitioner has been directed to adduce evidence, as how the certificate/degree, held by her is a recognized one to make her qualified for the post she is serving. Instead of complying the order, the petitioner has chosen to file this writ petition. Learned counsel for the petitioner, states that the certificate issued by Mahila Gramin Vidhyapeeth, Varanasi, is a recognized certificate. However, he failed to show if certificates, issued by said institution are either recognized by State of U.P. or are recognized by State of Uttaranchal. As against this, annexure-C.A. 4 to the counter affidavit, shows that the petitioner does not posses certificates of essential qualification from a recognized institution. Rather its name figures among the institutions, which have been declared to be non recognised.

Therefore, the writ petition is dismissed. Interim order dated 08.07.1993 is hereby vacated. (All pending applications in this case also stand disposed of).”

After dismissal of the writ petition, the Manager, Committee of Managent Anandmayee Seva Sadan, Municipal Mahila Inter College, Haridwar has passed the impugned order. But the petitioner instead of replying the notice has filed the earlier writ petition and again has filed this writ petition. The issue whether the certificate issued in favour of the petitioner is genuine and is issued by the Institution which is recognized, has already been decided by this High Court in its judgment dated 15.12.2006 passed in writ petition no. 24323 of 1992.

The petitioner may show the genuineness of the certificate of Sangeet Prabhakar Deploma as well as the cast certificate, before the competent authority.

In the circumstances mentioned above, the writ petition lacks merit and is liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

(M.M. Ghildiyal, J.)

April 19, 2007:
NCM: